

### **REMARKS**

Careful review and examination of the subject application are noted and appreciated.

### **SUPPORT FOR THE CLAIM AMENDMENTS**

Support for the claim amendments may be found in claims 120, 121, 162 and 182, as previously presented, and the specification, for example, on page 12, lines 18-29, page 18, line 23 - page 19, line 9, page 23 line 14 - page 24 line 7, page 24 lines 28-33, page 30 lines 3-6, and FIGS. 1, 5, 6, 7, 10, and 23A, as originally filed. Thus, no new matter has been added.

### **OBJECTION TO THE SPECIFICATION**

The objections to the specification under 35 U.S.C. 132 and 35 U.S.C. 112, first paragraph, for alleged new matter in claim 111 are respectfully traversed and should be withdrawn.

The word "specific" was added to claim 111 before the word "patient" to match the phrase "specific patient" in previously presented claims 110, 129 and 130. Furthermore, enabling a specific patient to choose when to receive a message is disclosed in the specification on page 24 lines 24-35, as originally filed. As such, no new matter was introduced by the January 2007 amendment to claim 111 and the objections should be withdrawn.

**CLAIM REJECTIONS UNDER 35 U.S.C. §103**

The rejection of claims 70, 117, 127, 138, 149, 150 and 170 under 35 U.S.C. §103(a) over Fu et al. '625 (hereafter Fu) and Lee '275 in view of Kirk et al. '238 (hereafter Kirk) has been obviated by appropriate amendment and should be withdrawn.

The rejection of claims 76, 113, 136, 159 and 179 under 35 U.S.C. §103(a) as being unpatentable over Fu, Lee and Kirk in further view of Beckers '974 has been obviated by appropriate amendment and should be withdrawn.

The rejection of claims 165 and 185 under 35 U.S.C. §103(a) as being unpatentable over Fu and Kirk in view of Dessertine '172 is respectfully traversed and should be withdrawn.

The rejection of claims 111, 118, 121, 122, 130, 143, 144, 152, 157, 162, 172, 177 and 182 under 35 U.S.C. §103(a) as being unpatentable over Fu, Lee and Kirk in further view of Fujimoto '821 has been obviated by appropriate amendment and should be withdrawn.

The rejection of claims 119, 131, 141, 154 and 174 under 35 U.S.C. §103(a) as being unpatentable over Fu, Lee and Kirk in view of the "Official Notice" taken by the Office regarding personal identification numbers has been obviated by appropriate amendment and should be withdrawn.

The rejection of claims 135, 160 and 180 under 35 U.S.C. §103(a) as being unpatentable over Fu, Lee and Kirk in view of the

"Official Notice" taken by the Office regarding program cartridges has been obviated by appropriate amendment and should be withdrawn.

Fu concerns a personal health monitor (Title). Lee concerns a home medical surveillance system (Title). Kirk concerns a health support system (Title). Beckers concerns a diabetes management system and apparatus (Title). Dessertine concerns a patient compliance and status monitoring system (Title). Fujimoto concerns a home medical system and medical apparatus for use therewith (Title).

Claim 70 provides a system configured to allow (c) the central server to send particular information to the remote patient sites of the particular patients in response to establishing the respective communication links, (d) the patients to interactively control a presentation of the particular information and (e) the presentation of at least one message within the particular information on the displays of the particular patients in response to the interactive control. In contrast, each of Fu, Lee and Kirk appear to be silent regarding a patient's ability to interactively control a presentation of particular information received from a server. Therefore, Fu, Lee and Kirk, alone or in combination, do not appear to teach or suggest a system configured to allow (c) the central server to send particular information to the remote patient sites of the particular patients in response to establishing the respective communication links, (d) the patients to interactively

control a presentation of the particular information and (e) the presentation of at least one message within the particular information on the displays of the particular patients in response to the interactive control, as presently claimed.

Furthermore, the assertion in the Office Action that former claim 120 (now partially copied into claim 70) is "similar in scope to claims 70, 117, 127, 138, 140, 149, 150, 169, 170-171, 173 and 189 are rejected on the same basis" appears to be merely a conclusory statement. The scope of former claim 120 is not similar to the scope in any of the claims 70, 117, 127, 138, 140, 149, 150, 169, 170, 171, 173 and 189. In addition, the arguments presented in the Office Action for the rejections of claims 70, 117, 127, 138, 140, 149, 150, 169, 170, 171, 173 and 189 do not appear to touch on a patients ability to interactively control a presentation of particular information received from a server. Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claimed limitations. Claims 127 and 149 provide language similar to claim 70.

Claim 70 further provides that the system is configured to allow (c) the central server to send particular information to the remote patient sites of the particular patients **in response to establishing the respective communication links**. In contrast, each of Fu, Lee and Kirk appear to be silent regarding transmission of

information in response to establishing respective communication links. Therefore, Fu, Lee and Kirk, alone or in combination, do not appear to teach or suggest that the system is configured to allow (c) the central server to send particular information to the remote patient sites of the particular patients in response to establishing the respective communication links, as presently claimed. Claims 127 and 149 provide language similar to claim 70.

Furthermore, the Office Action does not appear to address claim 70 element (c) in the rejection. The Office Action states on page 4 that Fu does not teach claim 70 element (c). However, nothing is said on pages 4-6 of the Office Action to indicate where Lee and/or Kirk allegedly teach claim 70 element (c). Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations. As such, claims 70, 127 and 49 are fully patentable over the cited references and the rejections should be withdrawn.

Claim 150 provides that each of the remote user sites has (1) a monitor mode in which the data management unit monitors patient health-related data, (2) a display mode in which the patient health-related data is presented on the display, (3) an input mode in which patient data is manually entered via the buttons and (4) a communications mode in which a respective communications link is established to at least one central server. In contrast, each of Fu, Lee and Kirk appear to be silent regarding

all of a monitor mode, a display mode, an input mode and a communications mode for each of the remote user sites. Therefore, Fu, Lee and Kirk, alone or in combination, do not appear to teach or suggest that each of the remote user sites has (1) a monitor mode in which the data management unit monitors patient health-related data, (2) a display mode in which the patient health-related data is presented on the display, (3) an input mode in which patient data is manually entered via the buttons and (4) a communications mode in which a respective communications link is established to at least one central server, as presently claimed. Claim 170 provides language similar to claim 150.

Claim 150 further provides that (iii) the system is configured to allow (a) at least one material of educational material and motivational material related to a particular one or more of the first users to be sent from the computer to the central server. In contrast, each of Fu, Lee and Kirk appear to be silent regarding motivational material and/or educational material related to a user to be sent from a computer to a central server. Therefore, Fu, Lee and Kirk, alone or in combination, do not appear to teach or suggest that the system is configured to allow (a) at least one material of educational material and motivational material related to a particular one or more of the first users to be sent from the computer to the central server, as presently claimed. Claim 170 provides language similar to claim 150.

Furthermore, the Office Action does not appear to address claim 150 element (iii)(a). In particular, the arguments presented on pages 4-6 of the Office Action only address the limitations of claim 70. No arguments are presented where any of Fu, Lee and/or Kirk allegedly teach claim 150 element (iii)(a). Therefore, *prima facie* obviousness has not been established for lack of evidence that references teach or suggest all of the claim limitations.

Claim 150 further provides that the system is configured to allow (c) transmission of the material from the central server to the remote user sites of the particular first users **in response to the establishment of the respective communication links**. In contrast, each of Fu, Lee and Kirk appear to be silent regarding transmission of material responsive to the establishment of a respective communication link. Therefore, Fu, Lee and Kirk, alone or in combination, do not appear to teach or suggest that the system is configured to allow (c) transmission of the material from the central server to the remote user sites of the particular first users in response to the establishment of the respective communication links, as presently claimed. Claim 170 provides language similar to claim 150.

Furthermore, the Office Action does not appear to address claim 150 element (iii)(c) in the rejection. Nothing is said on pages 4-6 of the Office Action to indicate where Fu, Lee and/or Kirk allegedly teach claim 150 element (iii)(c). Therefore, *prima*

*facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations. As such, claims 150 and 170 are fully patentable over the cited references and the rejections should be withdrawn.

Claim 120 provides that interactive control of the presentation of the particular information received from the central server utilizes at least one menu. Despite the assertion on page 7 of the Office Action, none of claims 70, 117, 127, 138, 140, 149, 150, 169, 170, 171, 173 or 189 include a menu as found in claim 120. Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations. Claims 142, 161 and 181 also provide a menu and yet received the same rejection as claim 120. As such, the Office is respectfully requested to either (i) provide evidence of where Fu, Lee and/or Kirk allegedly teach or suggest at least one menu that interactively controls the presentation of information received from a central server or (ii) withdraw the rejections to claims 120, 142, 161 and 181.

Claim 121 provides that the menu allows the patients to select: (i) a display mode to present first relevant information; (ii) an input mode to enter second relevant information; and (iii) a communications mode to establish the respective communication links with the central server. In contrast, each of Fu, Lee, Kirk and Fujimoto appear to be silent regarding a menu allowing the



selection of three different modes. Therefore, Fu, Lee, Kirk and Fujimoto, alone or in combination, do not appear to teach or suggest that the menu allows the patients to select: (i) a display mode to present first relevant information; (ii) an input mode to enter second relevant information; and (iii) a communications mode to establish the respective communication links with the central server, as presently claimed. Claims 143, 162 and 182 provide language similar to claim 121.

Furthermore, the Office Action asserts on page 13 that Fujimoto teaches a loudspeaker 13, a liquid crystal display apparatus 14 and three buttons 15, 16 and 17 which "indicates a display mode, input mode and communication mode as recited in the claimed invention." In contrast, one of ordinary skill in the art would not appear to understand how a combination of a loudspeaker, display and buttons would teach or suggest a menu that allows a patient to select among three different modes. Nothing about a loudspeaker, display or buttons suggests any mode of operating a remote patient site. As such, the Office is respectfully requested to either (i) provide evidence in the form of a reference and/or an affidavit under 37 CFR 1.104 showing that one of ordinary skill in the art would consider a loudspeaker, a display and three buttons to teach or suggest a menu that allows patients to select: (i) a display mode to present first relevant information; (ii) an input mode to enter second relevant information; and (iii) a

communications mode to establish the respective communication links with the central server or (ii) withdraw the rejections to claims 121, 143, 162 and 182.

Claim 111 provides that system enables a specific patient to choose when to receive the message (from the central server). In contrast, all of Fu, Lee, Kirk and Fujimoto appear to be silent regarding enabling a patient to choose when to receive a message from the central server as presently claimed. Claims 130, 157 and 177 provide language similar to claim 111.

Furthermore, page 13 of the Office Action states, "The Examiner considers the commands received by the patient to include selecting when to receive messages (updates) from the central server." In contrast, Fujimoto appears to be silent regarding any of the commands received by a specific patient that enable that specific patient to choose when to receive a message from a server. As such, the Office is respectfully requested to either (i) provide evidence in the form of a reference and/or an affidavit under 37 CFR 1.104 showing that one of ordinary skill in the art would consider commands received by a patient to teach that a system enables a specific patient to choose when to receive a message or (ii) withdraw the rejections to claims 111, 130, 157 and 177.

Claim 113 provides that the display is part of a video game device. In contrast, all of Fu, Lee and Kirk appear to be

silent regarding a display being part of a video game device as presently claimed.

Furthermore, page 13 of the Office Action asserts "The Examiner considers the display of the handheld device to be similar to video game devices." In contrast, all of Fe, Lee, Kirk and Becker appear to be silent that a display of a handheld device is part of a video game device, as presently claimed. As such, the Office is respectfully requested to either (i) provide evidence in the form of a reference and/or an affidavit under 37 CFR 1.104 showing that one of ordinary skill in the art would consider the display of the handheld device of Becker to teach or suggest a video game device or (ii) withdraw the rejections to claim 113.

Claim 126 provides that the system is further configured to enable programs to be loaded from the central server into the memories and to be subsequently executed at the remote patient sites. Despite the assertion on page 7 of the Office Action, none of claims 70, 117, 127, 138, 140, 149, 150, 169, 170, 171, 173 or 189 include a program loading operation similar to that of claim 126. Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach or suggest all of the claim limitations. Claims 163 and 183 provide language similar to claim 126. As such, the Office is respectfully requested to either (i) provide evidence of where Fu, Lee and/or Kirk allegedly teach or suggest loading programs from the central server into the

memories and to be subsequently executed at the remote patient sites or (ii) withdraw the rejections to claims 126, 163 and 183.

Claims 165 and 185 still depend from claims 150 and 170, which are still rejected over Fu, Lee and Kirk. Consequently, claims 165 and 185 still cannot be obvious over only Fu, Kirk and Dessertine in the absence of Lee. Therefore, the rejection remains incomplete and should be withdrawn.

Claims 76, 77, 110-123, 126, 128-145, 148, 151-166, 169, 171-186 and 189 depend from claims 70, 127, 150 and 170, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.

#### **COMPLETENESS OF THE OFFICE ACTION**

Aside from a notice of allowance, Applicant's representative respectfully requests any further action on the merits be presented as a non-final action. No evidence or arguments were presented to elements (iii)(a) and (iii)(c) of claim 150 and the similar material in claim 170 as required by 37 CFR §1.104(b). No sustainable evidence or arguments were presented for the rejection of at least claims 71, 110, 112, 114, 123, 126, 132, 133, 134, 145, 148 and 184. Furthermore, the rejection of dependent claims 165 and 185 are still based on fewer references than their corresponding independent base claims. The incorrect

basis of rejection for claims 165 and 185 was traversed and yet the current Office Action repeats the rejection without answering the substance of the traverse as required by MPEP §707.07(f). As such, the current Office Action is incomplete and thus the finality should be withdrawn.

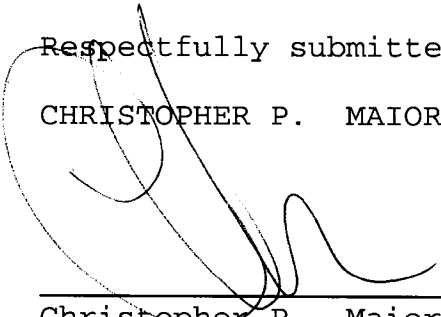
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,

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